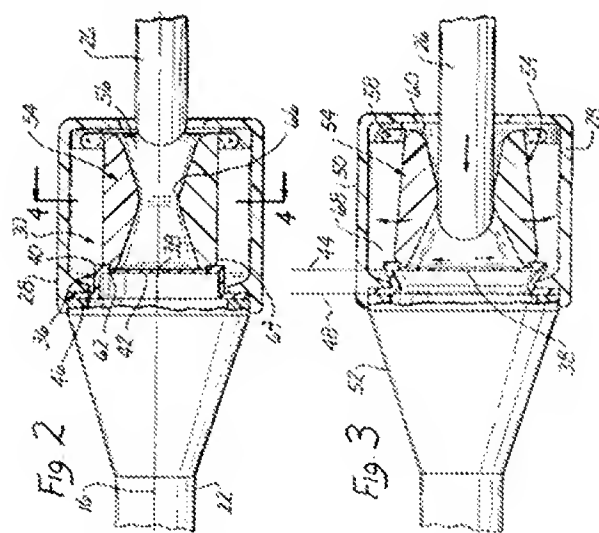


## REMARKS

The claims have been amended as indicated above. The amendments are being made to clarify the invention. The amendments are fully supported by the specification, claims, and figures as originally filed. No new matter is believed or intended to be involved.

The undersigned appreciates the courtesies extended by the Examiner during the interview on 03-16-2007. While no agreement was reached during the interview, we believe significant progress was made towards clarifying subject matter that would put the application in a condition for allowance. We acknowledge the Examiner reserved the right to supplement her search.

The Office Action rejected claims 1, 3, 6, 8-9, 17, 19, 23-27, and 29-32 under 35 U.S.C. § 102(b) as being anticipated by Ritchart (5,209,737). Applicants traverse this rejection and request reconsideration because this cited portions of the reference do not teach or suggest the combinations as currently claimed. Figs. 2 and 3 are reproduced below for convenience to illustrate the operation of Ritchart trocar before and after instrument (26) insertion:



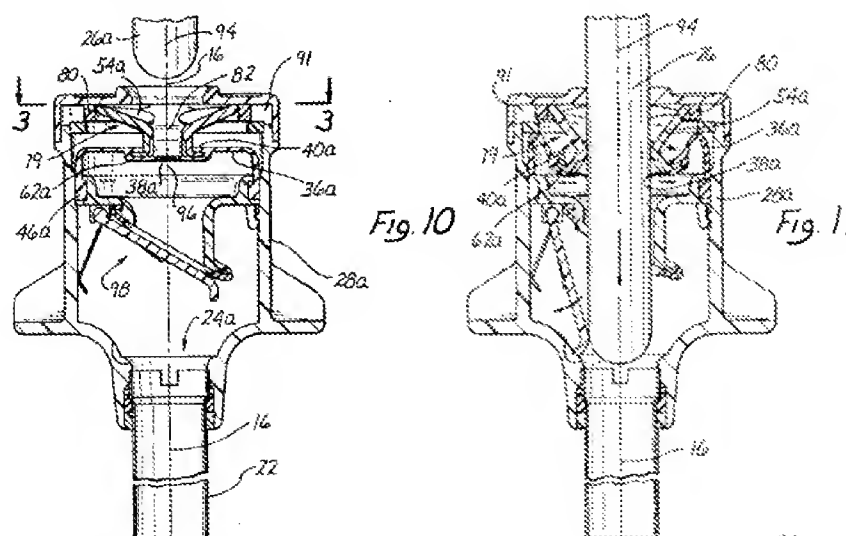
To maintain pressure of the insufflation gas, Ritchart uses an elastomeric septum seal lip (40) to seal against the instrument (26). Specifically, the septum seal lip (40) includes a central orifice (38) through which the instrument (26) passes and engages to provide the seal. Ritchart also includes several levers (54). One end of the lever (54) is mounted on a pivot (58) and the other end is attached to the septum seal lip (40) using the tooth member (62). As explained in

greater detail below, the levers (54) are used to adjust the size of the orifice (38) to accommodate the instrument:

As the instrument 26 is pushed into the throat 66 of the channel, its cross-sectional area, which exceeds the width of the channel, pushes the levers 54 radially outwardly, thereby pivoting the levers about their respective pivots 58, and moving the lever distal ends radially outwardly, as shown by the arrows in FIG. 3. Consequently, the engaging relationship between the lever teeth 62 and the lip 40 expands the lip radially outwardly. It is of particular advantage that the seating portions 46 of the seal are axially offset from orifice 38 and the lip 40, as discussed above. This positions the lip so that it is free to expand into the open space 68. (5:10-21, emphasis added).

The leverage provided by the levers 54 is best illustrated again by reference to FIG. 3, where it can be seen that the lever arm for measuring the diameter of the instrument 26 is less than the lever arm for spreading the lip 40. The expansion of the lip 40 in turn stretches the inner portions 42 of the septum 36, causing the radial width of the central orifice 38 to be expanded, as shown by the FIG. 3 arrows, to a second cross-sectional area which is slightly smaller than the particular cross-sectional area of the instrument 26. As a result, the instrument 26 may pass through the orifice 38 into the transition channel 52 and the channel 22 fairly easily, with the orifice closing tightly as to create significant frictional resistance between the instrument 26 and the septum 36. Such resistance is to be avoided since it not only opposes forward movement of the instrument 26 but also tends to tear the septum 36. (5:22-38, emphasis added).

Ritchart also discloses a modified embodiment that uses a different hinge arrangement for the lever (54). This embodiment is similar to that shown above, and equivalent elements are designated by the same reference numeral followed by the letter "a". Figs 10 and 11 are reproduced below illustrating the lever/septum seal interplay:



Each of the levers 54a is mounted on a pivot 58a at its proximal end, and has at least one tooth member 62a at its distal end. This tooth member 62a is adapted to engage the septum lip 40 as previously discussed. (6:59-62).

The Office Action draws several inaccurate or unsubstantiated conclusions regarding Ritchart. Without limitation, the Office Action inaccurately characterizes the levers as being “seal segments”. In both Ritchart embodiments the levers contact the instrument; however, the levers do not seal against insufflatory gases. Instead, Ritchart uses the septum seal lip to form a seal against the instrument. The Office Action also fails to cite any basis for concluding that the levers in Ritchart are “elastomeric.” Instead, the septum seal lip in Ritchart is taught as being elastomeric (4:7-13). The Office Action also fails to cite any basis for concluding levers are compressed between two rigid rings. These and other errors in the Office Action are sufficient basis for the Office to withdraw the rejection.

Turning now to the pending claims, many recited features and combinations patentably distinguish over Ritchart. Consider independent claim 1 that recites, “a first substantially rigid ring, a second substantially rigid ring, and a plurality of separate semicircular seal segments compressed therebetween.” Also consider independent claim 9 that recites, “a first substantially rigid ring, a second substantially rigid ring, and a plurality layered elastomeric members compressed therebetween, the elastomeric members being arranged circumferentially about an aperture in an alternating over and under pattern.” Further consider independent claim 17 that recites, “a first substantially rigid ring, a second substantially rigid ring, and a plurality of semicircular elastomeric members compressed therebetween, the elastomeric members circumscribing an aperture in an interwoven pattern and cooperate to seal against objects positioned within the aperture.” Further consider the structure and relationships of the resilient seal segments as recited in independent claim 25. These and other limitations are sufficient to patentably distinguish over Ritchart.

All dependent claims should also be in a condition for allowance by depending from allowable independent claims. Applicants note, however, that the dependent claims recite further limitations that distinguish over the art of record.

The Office Action rejected claims 2, 10, and 28 under 35 U.S.C. § 103(a) as being obvious over Ritchart in view of Honkanen (4,655,752). Applicants traverse the rejections and request reconsideration because a *prima facie* case of obvious has not been established under

MPEP § 2143. This rejection is premised on Ritchart as applied to the independent claims 1, 9, and 25. As discussed above, Ritchart fails to teach or suggest all the claim limitations and the cited portions of Honkanen fail to compensate for the deficiencies of Ritchart.

The Office Action rejected claims 4-5 under 35 U.S.C. § 103(a) as being obvious over Ritchart in view of Hart (5,209,737). Applicants traverse the rejections and request reconsideration because a *prima facie* case of obvious has not been established under MPEP § 2143. This rejection is premised on Ritchart as applied to the independent claim 1. As discussed above, Ritchart fails to teach or suggest all the claim limitations and the cited portions of Hart fail to compensate for the deficiencies of Ritchart.

Based on the foregoing, all of the pending claims are in a condition for allowance. Applicants traverse all rejections and request reconsideration, and Applicants request an early notice of allowability.

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Respectfully submitted,

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